

EXHIBIT N

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

COMBINED COMPANIES, INC.,
a Florida corporation,

AND

WINBACK & CONSERVE PROGRAM,
INC.,
a New Jersey corporation,

AND

PUBLIC SERVICE ENTERPRISES
OF PA, INC.,
a Pennsylvania corporation

Plaintiffs,

v.

AT&T CORP.,
a New York corporation,

Defendant.

AFFIDAVIT OF PATRICK
HELLO IN SUPPORT OF
PLAINTIFFS' APPLICATION
FOR AN ORDER TO SHOW
CAUSE WITH TEMPORARY
RESTRAINTS

Patrick Bello, being duly sworn, deposes and says:

1. I am the Vice-President of Public Service Enterprises of Pa., Inc. ("PSE"). I make this affidavit in further support of Plaintiffs' Application for an Order to Show Cause With Temporary Restraints.

Background - PSE's Resale Business

2. PSE is engaged in the telecommunications resale business, including the resale of outbound services, 800 services, and combined outbound and 800 services offerings.

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AA35

3. PSE resells AT&T's services to small businesses. PSE obtains service from AT&T pursuant to AT&T's tariffs for outbound services. In particular, PSE has obtained service pursuant to a contract tariff with AT&T that combines 800 services and outbound calling services, which PSE resells to small businesses. PSE's contract tariff is AT&T's Contract Tariff F.C.C. No. 516 ("Contract Tariff 516"). PSE is a long time customer of AT&T, and has established and maintained a record of financial responsibility with AT&T for several years. PSE's monthly AT&T usage is several million dollars per month.

4. Because of the discounts PSE enjoys under Contract Tariff No. 516 and other AT&T offerings, PSE is able to resell its Contract Tariff No. 516 services to aggregators, such as CCI and Winback, and/or other resale carriers, at better rates than those that may be available directly from AT&T. Aggregators therefore enter into agreements with PSE and transfer their traffic to PSE in order to obtain higher discounts.

5. As AT&T's customer of record under Contract Tariff No. 516, PSE is also directly liable to AT&T for the charges incurred for the outbound and 800 usage of AT&T services by PSE's customers, including the traffic transferred to CCI by Winback which would have been included in the traffic CCI seeks to transfer to PSE.

6. AT&T directly provides the network facilities and services for the outbound and 800 services PSE aggregates to its end users. AT&T also bills and collects the charges for aggregated outbound and inbound services from PSE's end users and remits to PSE a portion of the charges collected according to the terms negotiated by PSE and AT&T.

PSE
ASSUMES
B AD
Debt

7. On January 13, 1995, CCI and PSE jointly executed and submitted written orders to AT&T to transfer 800 traffic under numerous plans to PSE, as customer of record under AT&T's Contract Tariff 516. These plans included Plans Nos. 1351, 1583, 2430, 2828, 2829, 3124, 3468, 3524 and 3663, true copies of which are attached hereto as Exhibit A (hereinafter collectively the "Plans"). The purpose of this traffic transfer order was to obtain service under the more favorable terms of the PSE Contract Tariff 516 than existed under the tariff terms then covering the Plans themselves.

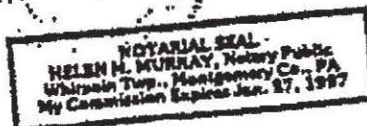
8. As a result of the transfer of CCI/Winback's traffic to PSE's Contract Tariff 516, PSE receives significant benefits by increasing its volume of traffic serviced under Contract Tariff 516. This opportunity is unique and fleeting. There are limited opportunities for PSE to acquire comparable traffic volumes for inclusion in its Contract Tariff 516 other than the one available from CCI's transfer of the traffic as it has proposed.

9. The monetary value of PSE's loss if AT&T blocks PSE's transaction with CCI is not readily calculable, as it includes significant harm to PSE's goodwill and reputation with respect to its independent contractor agents and the public. At a minimum, PSE will lose the revenues from each minute of traffic that AT&T provides to CCI at rates higher than those available under Contract Tariff 516.

Patrick A. Bello
Patrick A. Bello
Vice-President
Public Service Enterprises of Pa., Inc.

Subscribed and sworn to before me
this 24 day of February, 1995

Helen M. Murray
Notary Public



- 3 -

02/24/95 FRI 15:55 [TX/RX NO 5418]

AA37

PUBLIC SERVICE ENTERPRISES
OF PENNSYLVANIA, INC.

45 OWEN STREET, FORTY FORT, PA. 18704

January 13, 1994

PHONE 717/287-3161

Mrs. Ann Anderson
Minneapolis Fron End Center
10th Floor
Minneapolis, MN 55402-3233

Dear Ann:

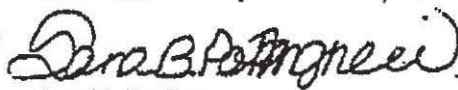
Please find a properly executed AT&T Transfer of Service Agreements (TSA) to move all the end-user locations, except the 181 account number and 131 lead account number into PSE's CT 516 (CSTP/RVPP Plan ID # 003690).

The individual plans should each receive their own bill group as listed below:

<u>Plan ID #</u>	<u>Report Group</u>	<u>Report Group Name</u>
001351	038	CCI001
002828	039	CCI002
001583	040	CCI003
003124	041	CCI004
002430	042	CCI005
003663	043	CCI006
003468	044	CCI007
003524	045	CCI008
002829	046	CCI009

This order is solely to move the locations associated with these plans and not intended to in any way to discontinue the plans.

Sincerely,



Sara B. Penigrew

VSBP

Enclosures

Transfer of Service
Agreement and Notification

I, COMBINED COMPANIES Inc. Plan 2828, hereby
(Former Customer)

request that AT&T transfer or assign service for Account
Number(s) ALL BTN'S Except MAND Accts + 181 000 0035 588
to Public Service Enterprises of Pennsylvania, Inc.
(Customer)

Former Customer understands and agrees that this transfer or assignment does not relieve or discharge it from remaining jointly and severally liable with New Customer for any obligations existing at the time of transfer or assignment. These obligations include: (1) all outstanding indebtedness for the account numbers specified above and (2) the unexpired portion of any applicable minimum payment period(s).

New Customer hereby assumes all obligations of Former Customer at the time of transfer or assignment. These obligations include: (1) all outstanding indebtedness for the service and (2) the unexpired portion of any applicable minimum payment period(s).

Services are not to be interrupted or relocated at the time transfer or assignment is made. This transfer or assignment will become effective on the later of 1/15/95
(Date)

or AT&T's agreement in writing of the transfer or assignment.

Nothing herein shall give any customer, assignee, or transferee any interest or proprietary right in any given AT&T service telephone number.

*TRAFFIC ONLY
Move all BTN'S*

Except 181 000 0035 588

AND 131 112 8222 448

*CSTRA/Kapp Plan 2828 IN TACT
AS A pre 6/17/94 PLAN*

G. L. 1/16/95
Former Customer (Date)
Authorized Representative

President
Title
[Signature]
New Customer (Date)
Authorized Representative

[Signature]
Title

Transfer of Service
Agreement and Notification

I, COMBINED COMPANIES PAN ID 3663, hereby
(Former Customer)

request that AT&T transfer or assign service for Account
Number(s) ~~181-000-0142-457~~ 181-000-0142-457
~~131-134-0230-254~~ 131-134-0230-254
to Public Service Enterprises of Pennsylvania, Inc.
(Customer)

Former Customer understands and agrees that this transfer or assignment does not relieve or discharge it from remaining jointly and severally liable with New Customer for any obligations existing at the time of transfer or assignment. These obligations include: (1) all outstanding indebtedness for the account numbers specified above and (2) the unexpired portion of any applicable minimum payment period(s).

New Customer hereby assumes all obligations of Former Customer at the time of transfer or assignment. These obligations include: (1) all outstanding indebtedness for the service and (2) the unexpired portion of any applicable minimum payment period(s).

Services are not to be interrupted or relocated at the time transfer or assignment is made. This transfer or assignment will become effective on the later of January 10, 1995
(Date)

or AT&T's agreement in writing of the transfer or assignment.

Nothing herein shall give any customer, assignee, or transferee any interest or proprietary right in any given AT&T service telephone number.

TRAFFIC ONLY
MOVE ALL PAN
EXCEPT
181-000-0142-457
131-134-0230-254

CHUCK L 1/10/95
Former Customer (Date)
Authorized Representative

TRISTON
Title
[Signature] 1/13/95
New Customer (Date)
Authorized Representative
A. [Signature]
Title

CSTD/KEEP PLAN
3663 IN TRST.

Transfer of Service
Agreement and Notification

I, COMBINED COMMUNICATIONS INC. PLAN 75 2430, hereby
(Former Customer)

request that AT&T transfer or assign service for Account

Number(s) MOVE ALL BTNS Except 181 000 0052 757
131 096 6048 779

to Public Service Enterprises of Pennsylvania, Inc.
(Customer)

Former Customer understands and agrees that this transfer or assignment does not relieve or discharge it from remaining jointly and severally liable with New Customer for any obligations existing at the time of transfer or assignment. These obligations include: (1) all outstanding indebtedness for the account numbers specified above and (2) the unexpired portion of any applicable minimum payment period(s).

New Customer hereby assumes all obligations of Former Customer at the time of transfer or assignment. These obligations include: (1) all outstanding indebtedness for the service and (2) the unexpired portion of any applicable minimum payment period(s).

Services are not to be interrupted or relocated at the time transfer or assignment is made. This transfer or assignment will become effective on the later of 1/10/95
(Date)

or AT&T's agreement in writing of the transfer or assignment.

Nothing herein shall give any customer, assignee, or transferee any interest or proprietary right in any given AT&T service telephone number.

TRAFFIC ONLY
MOVE ALL BTN'S
Except

181 000 0052 757

131 096 6048 779

Keep CSTP # IN TACT.
AS P.c 6/17/94 PLAN

G-76 L 1/10/95
Former Customer (Date)
Authorized Representative

President
Title
[Signature] 1/13/95
New Customer (Date)
Authorized Representative

[Signature]
Title

Transfer of Service
Agreement and Notification

1. Combined Companies Inc. # 1351, hereby
(Former Customer)

request that AT&T transfer or assign service for Account

Number(s) MOVE ALL BTNS Except 121 000 0018133

to Public Service Enterprises of Pennsylvania, Inc.
(Customer)

Former Customer understands and agrees that this transfer or assignment does not relieve or discharge it from remaining jointly and severally liable with New Customer for any obligations existing at the time of transfer or assignment. These obligations include: (1) all outstanding indebtedness for the account numbers specified above and (2) the unexpired portion of any applicable minimum payment period(s).

New Customer hereby assumes all obligations of Former Customer at the time of transfer or assignment. These obligations include: (1) all outstanding indebtedness for the service and (2) the unexpired portion of any applicable minimum payment period(s).

Services are not to be interrupted or relocated at the time transfer or assignment is made. This transfer or assignment will become effective on the later of 1/10/95
(Date)

or AT&T's agreement in writing of the transfer or assignment.

Nothing herein shall give any customer, assignee, or transferee any interest or proprietary right in any given AT&T service telephone number.

TRAFFIC ONLY
Keep PLAN IN TKT

~~MOVE~~ ALL BTNS
Except 121 000 0018133

C. M. G. V. 1/10/95
Former Customer (Date)
Authorized Representative

DEKALDEN
Title

[Signature] 1/13/95
New Customer (Date)
Authorized Representative

Out VP
Title

Transfer of Service
Agreement and Notification

I, Continental Companies, Inc. 36 3/68, hereby
(Former Customer)

request that AT&T transfer or assign service for Account

Number(s) MOVE ALL RTN'S EXCEPT 181 000 0091740
131 123 6023 035

to Public Service Enterprises of Pennsylvania, Inc.
(Customer)

Former Customer understands and agrees that this transfer or assignment does not relieve or discharge it from remaining jointly and severally liable with New Customer for any obligations existing at the time of transfer or assignment. These obligations include: (1) all outstanding indebtedness for the account numbers specified above and (2) the unexpired portion of any applicable minimum payment period(s).

New Customer hereby assumes all obligations of Former Customer at the time of transfer or assignment. These obligations include: (1) all outstanding indebtedness for the service and (2) the unexpired portion of any applicable minimum payment period(s).

Services are not to be interrupted or relocated at the time transfer or assignment is made. This transfer or assignment will become effective on the later of 1/10/95
(Date)

or AT&T's agreement in writing of the transfer or assignment.

Nothing herein shall give any customer, assignee, or transferee any interest or proprietary right in any given AT&T service telephone number.

TRAFFIC ONLY
TRANSFER ALL

RTN'S

EXCEPT THE 2 FOLLOWING

181-000 0091740

+ 131 123 6023 035

PLACE ALL RTN'S IN
RVID REPORT GROUP 2
044

C. G. L. 1/10/95
Former Customer (Date)
Authorized Representative

P. J. JONES
Title
[Signature] 1/13/95
New Customer (Date)
Authorized Representative

A. V. [Signature]
Title

Transfer of Service
Agreement and Notification

I, COMBINED COMPANIES, INC. PLAN IS 2829, hereby
(Former Customer)

request that AT&T transfer or assign service for Account
Number(s) MOVE ALL BTN'S EXCEPT 181 000 0099259
+ 131 112 8087823

to Public Service Enterprises of Pennsylvania, Inc.
(Customer)

Former Customer understands and agrees that this transfer or
assignment does not relieve or discharge it from remaining
jointly and severally liable with New Customer for any
obligations existing at the time of transfer or assignment.
These obligations include: (1) all outstanding indebtedness
for the account numbers specified above and (2) the unexpired
portion of any applicable minimum payment period(s).

New Customer hereby assumes all obligations of Former Customer at
the time of transfer or assignment. These obligations include:
(1) all outstanding indebtedness for the service and (2) the
unexpired portion of any applicable minimum payment period(s).

Services are not to be interrupted or relocated at the time
transfer or assignment is made. This transfer or assignment will
become effective on the later of 11/10/95
(Date)

or AT&T's agreement in writing of the transfer or assignment.

Nothing herein shall give any customer, assignee, or transferee
any interest or proprietary right in any given AT&T service
telephone number.

TRAFFIC ONLY
MOVE ALL BTN'S

Except

181 000 0099259

+ 131 112 8087823

Keep CSTP II PLAN IS

2829 IN.TACT

AS Per 6/17/94 PLAN

G. Li 11/10/95
Former Customer (Date)
Authorized Representative

President
Title
[Signature] 11/13/95
New Customer (Date)
Authorized Representative

Title

Transfer of Service
Agreement and Notification

I, COMBINED COMMUNICATIONS INC PLAN 354, hereby
(Former Customer)

request that AT&T transfer or assign service for Account

Number(s) ALL BTN'S Except 181 000 0105 364
+ 131 126 6569 385

to Public Service Enterprises of Pennsylvania, Inc.
(Customer)

Former Customer understands and agrees that this transfer or assignment does not relieve or discharge it from remaining jointly and severally liable with New Customer for any obligations existing at the time of transfer or assignment. These obligations include: (1) all outstanding indebtedness for the account numbers specified above and (2) the unexpired portion of any applicable minimum payment period(s).

New Customer hereby assumes all obligations of Former Customer at the time of transfer or assignment. These obligations include: (1) all outstanding indebtedness for the service and (2) the unexpired portion of any applicable minimum payment period(s).

Services are not to be interrupted or relocated at the time transfer or assignment is made. This transfer or assignment will become effective on the later of _____
(Date) 1/10/95

or AT&T's agreement in writing of the transfer or assignment.

Nothing herein shall give any customer, assignee, or transferee any interest or proprietary right in any given AT&T service telephone number.

TRAFFIC ONLY
MOVE ALL BTN'S
Except 181 000 0105 364
+ 131 126 6569 385

Keep CSTR IF PLAN IS 354
IN TRCT AS A Pre
6/17/94 PLAN

G M G L 1/10/95
Former Customer (Date)
Authorized Representative

President
Title

[Signature] 1/13/95
New Customer (Date)
Authorized Representative

Art V. Pica
Title

Transfer of Service
Agreement and Notification

I, COMBINED COMPANIES, INC. PLAN 2829, hereby
(Former Customer)

request that AT&T transfer or assign service for Account

Number(s) MOVE ALL BTN'S EXCEPT 41040 0099259
+ 131 112 8087823

to Public Service Enterprises of Pennsylvania, Inc.
(Customer)

Former Customer understands and agrees that this transfer or assignment does not relieve or discharge it from remaining jointly and severally liable with New Customer for any obligations existing at the time of transfer or assignment. These obligations include: (1) all outstanding indebtedness for the account numbers specified above and (2) the unexpired portion of any applicable minimum payment period(s).

New Customer hereby assumes all obligations of Former Customer at the time of transfer or assignment. These obligations include: (1) all outstanding indebtedness for the service and (2) the unexpired portion of any applicable minimum payment period(s).

Services are not to be interrupted or relocated at the time transfer or assignment is made. This transfer or assignment will become effective on the later of 12/18/95
(Date)

or AT&T's agreement in writing of the transfer or assignment.

Nothing herein shall give any customer, assignee, or transferee any interest or proprietary right in any given AT&T service telephone number.

TRAFFIC ONLY
MOVE ALL BTN'S
EXCEPT

181 080 0099259

+ 131 112 8087823

Keep CSTP II PLAN 28

2829 IN TACT

AS PRG 6/17/94 PLAN

G. G. L. 1/16/95
Former Customer (Date)
Authorized Representative

President
Title
[Signature] 1/13/95
New Customer (Date)
Authorized Representative

Title

Transfer of Service
Agreement and Notification

I, Combinet Company, Inc. 3/24, hereby
(Former Customer)

request that AT&T transfer or assign service for Account
Number(s) MOVE ALL BTNS Except 181-000-0030-144
131-001-0967-310

to Public Service Enterprises of Pennsylvania, Inc.
(Customer)

Former Customer understands and agrees that this transfer or assignment does not relieve or discharge it from remaining jointly and severally liable with New Customer for any obligations existing at the time of transfer or assignment. These obligations include: (1) all outstanding indebtedness for the account numbers specified above and (2) the unexpired portion of any applicable minimum payment period(s).

New Customer hereby assumes all obligations of Former Customer at the time of transfer or assignment. These obligations include: (1) all outstanding indebtedness for the service and (2) the unexpired portion of any applicable minimum payment period(s).

Services are not to be interrupted or relocated at the time transfer or assignment is made. This transfer or assignment will become effective on the later of 1/10/95
(Date)

or AT&T's agreement in writing of the transfer or assignment.

Nothing herein shall give any customer, assignee, or transferee any interest or proprietary right in any given AT&T service telephone number.

TRAFFIC ONLY
keep 3/24 IN TACT

MAKE ALL ACCOUNTS
EXCEPT 181-000-0030-144
& 131-001-0967-310

G-76 L 11/10/95
Former Customer (Date)
Authorized Representative

President
Title

[Signature] 11/13/95
New Customer (Date)
Authorized Representative

[Signature]
Title

Transfer of Service
Agreement and Notification

I, Combined Companies, Inc JB 1583, hereby
(Former Customer)

request that AT&T transfer or assign service for Account

Number(s) All BTNS Except for 131 029 8680 574
181 000 0009 123

to Public Service Enterprises of Pennsylvania, Inc.
(Customer)

Former Customer understands and agrees that this transfer or assignment does not relieve or discharge it from remaining jointly and severally liable with New Customer for any obligations existing at the time of transfer or assignment. These obligations include: (1) all outstanding indebtedness for the account numbers specified above and (2) the unexpired portion of any applicable minimum payment period(s).

New Customer hereby assumes all obligations of Former Customer at the time of transfer or assignment. These obligations include: (1) all outstanding indebtedness for the service and (2) the unexpired portion of any applicable minimum payment period(s).

Services are not to be interrupted or relocated at the time transfer or assignment is made. This transfer or assignment will become effective on the later of 1/10/95
(Date)

or AT&T's agreement in writing of the transfer or assignment.

Nothing herein shall give any customer, assignee, or transferee any interest or proprietary right in any given AT&T service telephone number.

TRAFFIC ONLY
MOVE ALL BTNS

Except

181 000 0009 123

+ 131 029 8680 574

Keep 1583 IN TACT

C. L. 1/10/95
Former Customer (Date)
Authorized Representative

President
Title
[Signature] 1/13/95
New Customer (Date)
Authorized Representative

Art. V. Piro
Title

EXHIBIT O

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Argued November 12, 2004

Decided January 14, 2005

No. 03-1431

AT&T CORPORATION,
PETITIONER

v.

FEDERAL COMMUNICATIONS COMMISSION AND
UNITED STATES OF AMERICA,
RESPONDENTS

On Petition for Review of an Order of the
Federal Communications Commission

David W. Carpenter argued the cause for petitioner. With him on the briefs were *Peter H. Jacoby*, *James F. Bendernagel*, Jr., *C. John Buresh*, and *Michael J. Hunseder*.

Laurence N. Bourne, Counsel, Federal Communications Commission, argued the cause for respondents. With him on the briefs were *Robert B. Nicholson* and *Steven J. Mintz*, Attorneys, U.S. Department of Justice, *John A. Rogovin*, General Counsel, *Richard K. Welch*, Associate General Counsel, *John E. Ingle*, Deputy Associate General Counsel, and *Rodger D. Citron*, Counsel. *Laurel R. Bergold*, Counsel, entered an appearance.

Before: GINSBURG, *Chief Judge*, and TATEL and ROBERTS, *Circuit Judges*.

Opinion for the Court by *Circuit Judge* ROBERTS.

ROBERTS, *Circuit Judge*: AT&T Corporation petitions for review of a Federal Communications Commission order interpreting AT&T's tariff on resales of 800 telephone service. A provision of that tariff allows resellers to transfer their business, so long as the recipient assumes all of the transferor's obligations. Based on this provision, AT&T denied one reseller's request to move the "traffic" under its 800 plans to another reseller without a transfer of the corresponding obligations. The Commission interpreted the tariff transfer provision as not addressing the movement of traffic, and ultimately held that AT&T could not refuse the transfer. We conclude that traffic is a type of service covered by the transfer provision, and that the Commission's contrary interpretation would render the provision meaningless. We grant the petition for review.

← ERROR

I.

This case concerns the transfer of toll-free 800 telephone service. At the time of the events in question, AT&T was the dominant carrier of such service, which it provided pursuant to tariffs filed with the FCC. Under the Communications Act of 1934, as amended, and the "filed rate doctrine" incorporated therein, neither the carrier nor its customers could depart from the terms set forth in AT&T's tariffs. *See* 47 U.S.C. § 203(c); *AT&T v. Cent. Office Tel., Inc.*, 524 U.S. 214, 221–24 (1998); *Orloff v. FCC*, 352 F.3d 415, 418 (D.C. Cir. 2003).

The tariff at issue here — AT&T Tariff FCC No. 2 — allowed companies to purchase and resell 800 service to small businesses around the country. The tariff refers to this resale business, as well as the underlying service itself, as Wide Area Telecommunications Service (WATS). Any company could

qualify as a reseller so long as it met the requirements of one of several plans described in the tariff. Companies qualified by aggregating the WATS usage of multiple small businesses into a single plan, and, under the tariff, the companies obtained AT&T's service for these "end-user" businesses at a discounted rate. In return, the reseller or "aggregator" company agreed to meet certain obligations set forth by the carrier, including commitments to purchase a certain volume of use.

In the early 1990s, as other carriers began to acquire a share of the 800 market, the FCC began to loosen its regulation of AT&T. Starting in 1991, the Commission no longer forced the carrier to offer WATS only through the generic plans set forth in Tariff No. 2. Instead, the FCC gave AT&T the option of individually negotiating "contract tariffs" with particular resale companies. As contract tariffs could be drawn to offer discounts greater than those available under Tariff No. 2, many resellers naturally sought to obtain them.

Alfonse Inga, a New Jersey businessman who owned several aggregator companies, was one such reseller. In 1994, Mr. Inga undertook a series of transactions designed to move his business from Tariff No. 2 to a more lucrative contract tariff. First, his companies — each of which operated under CSTP II, a type of plan offered under Tariff No. 2 — transferred all nine of their plans to a new entity, Combined Companies, Incorporated (CCI). As required by Section 2.1.8 of Tariff No. 2, CCI expressly agreed to assume all obligations of the transferor companies. The transfer also stipulated that CCI would pass 80 percent of its profits on to the transferor companies. Second, CCI attempted to negotiate a contract tariff with AT&T. Third, as temporary cover until this envisioned contract tariff became a reality, or as a permanent alternative in case it never did, Mr. Inga planned another transfer — one between CCI and Public Services Enterprises of Pennsylvania (PSE). PSE already had a contract

tariff with AT&T at a substantially larger discount on AT&T's 800 service than that available to CCI under Tariff No. 2.

AT&T resisted this series of transactions. Fearing that CCI would not have the assets to meet its obligations under the transferred plans, AT&T initially refused to implement the first transfer (from the Inga companies to CCI) unless CCI paid a deposit — a requirement not found in Section 2.1.8 of Tariff No. 2. In 1995, the Inga companies and CCI brought suit against AT&T in federal district court in New Jersey, and the court ordered AT&T to drop the deposit requirement and implement the transfer. *Combined Companies, Inc. v. AT&T*, No. 95-908 (D.N.J. May 19, 1995) (unpublished opinion).

Meanwhile, CCI's negotiations for its own contract tariff failed and CCI entered into the second transfer, moving substantially all the 800 service in its CSTP II plans to PSE. As with the first transfer, the CCI-PSE agreement called for PSE to pass much of the realized profit back to CCI. The second transfer, however, differed from the first in an important respect. The parties attempted to structure the transaction to avoid Section 2.1.8 of Tariff No. 2, so that PSE would not have to assume CCI's obligations on the transferred service. To do this, the parties asked AT&T to move just the service to particular end-user businesses — the "traffic" under CCI's plans — and to leave the plans themselves otherwise intact. The parties hoped that, as a result, 800 service would be billed under PSE's substantially lower contract tariff rates, while CCI would remain responsible for the obligations to the carrier under Tariff No. 2.

AT&T balked at this second transfer as well. AT&T maintained that Section 2.1.8 applied to the transaction, and that PSE thus had to assume CCI's obligations in order for the transfer to go through. In addition, AT&T argued that the proposed transfer violated the tariff's "fraudulent use" provisions, as CCI almost certainly would fall short of its volume

commitments once the traffic was moved to PSE's account, and AT&T had reason to believe that CCI would not have sufficient assets to pay the resulting penalties.

The same district court that compelled AT&T to accept the first transfer declined to rule on the second, holding that tariff interpretation issues were within the primary jurisdiction of the FCC. *Id.* at *15. When none of the parties brought the primary jurisdiction matter to the agency, however, the district court went ahead and issued its own decision interpreting the tariff. *See Combined Companies, Inc. v. AT&T*, No. 95-908 (D.N.J. Mar. 5, 1996) (unpublished opinion). The Third Circuit vacated this ruling as inconsistent with the primary jurisdiction referral, and ordered the sides to bring the matter to the FCC's attention. *Combined Companies, Inc. v. AT&T*, No. 96-5185 (3d Cir. May 31, 1996) (unpublished opinion).

The specific question referred to the FCC was "whether section 2.1.8 permits an aggregator to transfer traffic under a plan without transferring the plan itself in the same transaction." *Id.* at *3. While the case was pending before the Commission, AT&T entered into a settlement with CCI, extinguishing its WATS plans and releasing all claims between the two parties. Apparently as a result of this settlement, the Commission took no action on the case for seven years. The Inga companies, however, continued to claim damages stemming from AT&T's denial of the CCI-PSE transfer, and in 2003 the Commission finally addressed the Third Circuit referral.

The Commission held that Section 2.1.8 did not govern, and therefore did not preclude, the movement of traffic without attendant obligations. FCC Memorandum Opinion and Order at 6-8. In particular, the Commission reasoned that Section 2.1.8 applied only to the transfer of entire tariffed plans, and not to the transfer of just the traffic component of such plans. *Id.* at 7. The Commission also held that, even assuming the transaction

constituted fraud under the tariff, the tariff did not allow AT&T to remedy such fraud by denying the transfer. *Id.* at 8–10. In light of these holdings, the Commission ruled that AT&T could not refuse the CCI-PSE transfer. *Id.* at 14. The Inga companies, whose involvement in the federal district court action in New Jersey is still ongoing, view the Commission’s ruling as entitling them to millions of dollars in damages.

AT&T now petitions for review of the FCC order.

II.

Our inquiry is governed by the Administrative Procedure Act, which requires us to uphold an FCC order unless it is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A). To clear this threshold, the FCC’s tariff interpretations must be “reasonable [and] based upon factors within the Commission’s expertise.” *Global NAPS, Inc. v. FCC*, 247 F.3d 252, 258 (D.C. Cir. 2001) (citation omitted and alteration in original). Thus, we will reverse the FCC only if its interpretations are “not supported by substantial evidence, or the [Commission] has made a clear error in judgment.” *Id.* (same).

The Commission’s order in this case is entirely predicated on its determination that Section 2.1.8 of Tariff No. 2 does not apply to the movement of traffic. At the time of the proposed transfer to PSE, that Section read as follows:

Transfer or Assignment— WATS [Wide Area Telecommunications Service] . . . may be transferred or assigned to a new Customer, provided that:

. . .

B. The new Customer notifies [AT&T] in writing that it agrees to assume all obligations of the former Customer at the time of the transfer or assignment.

The Section on its face does not differentiate between transfers of entire plans and transfers of traffic, but rather speaks only in terms of WATS — the telephone service itself. The new and former Customers referred to are the aggregators, in this case PSE and CCI. Accordingly, any transfer of WATS required PSE to assume CCI's obligations.

AT&T's basic argument before this court is that "traffic," even if it is not the same thing as a tariffed *plan*, is a type of Wide Area Telecommunications *Service* covered by Section 2.1.8. In transferring traffic, the parties sought to reassign particular end-user businesses from CCI to PSE, so that calls to these businesses would be billed under PSE's lower rates. Thus, CCI asked AT&T to transfer the billed telephone numbers (corresponding to individual end-user locations) included in each CSTP II plan. *See* Transfer of Service Agreement Forms. It must be — AT&T argues — that what the parties sought to transfer is a type of service covered by the tariff; that is why they used the Transfer of *Service* forms. *See* AT&T Tariff FCC No. 2, Section 3.1.1 (defining "800 Service and WATS" as "telecommunications services which permit inward and outward calling respectively between a station associated with an access line in one location and stations in diverse geographical service areas specified by the Customer").

The Commission does not respond directly to AT&T's argument. Instead, both in its brief before this court and in its order below, the FCC relies on a statement made by AT&T in comments submitted in the administrative proceeding. There, AT&T noted in passing that "in this case the relevant WATS services are the CSTP II Plans." Comments of AT&T Corp. in Opposition to Joint Petition for Declaratory Ruling and Joint Motion for Expedited Consideration at 10. The Commission interprets this statement as conceding that Section 2.1.8 can only be triggered by the wholesale transfer of tariffed plans, and not

by the transfer of component parts such as individual billed telephone numbers. *See* FCC Order at 6-7; FCC Br. at 16-18.

AT&T, however, argues persuasively that the FCC misinterpreted its comment. Immediately following the alleged concession, AT&T's submission noted that:

[Section 2.1.8], by its terms, allows a transfer of CCI's service to PSE only if PSE agreed to assume all obligations under those plans. *Yet CCI explicitly amended the transfer of services form to read "Traffic Only."* By expressly declaring that it did not intend to effectuate a transfer of all obligations under the plans to PSE . . . *the proposed transfer, on its face, violated the terms of Section 2.1.8.*

Comments of AT&T Corp. at 10-11 (emphasis added) (citation omitted). It appears quite clear, then, that AT&T did not concede the inapplicability of Section 2.1.8 to transfers of traffic only. Indeed, had AT&T been willing to make such a concession, it presumably would not have contested the meaning of this provision before the Commission. Accordingly, the FCC's reliance on AT&T's comment is plainly misplaced.

Absent such reliance, the Commission provides us with little reason why the plain language of Section 2.1.8 fails to encompass transfers of traffic alone. The Commission maintains that "[r]ather than a single transfer request, here CCI and PSE effectively made two requests: one by CCI to AT&T to decrease its traffic, and another by PSE to increase its traffic." FCC Order at 7; *see* FCC Br. at 17. But this hardly sheds light on the meaning of the transfer provision. First, AT&T contends that a simultaneous decrease and increase in the respective service of CCI and PSE would in fact not accomplish the same objectives as a transfer of service. AT&T argues that the transfer provision, Section 2.1.8, was included precisely because there are practical benefits to a transfer that would be lost through a transaction of the sort hypothesized by the Commission. These include

guarantees against service interruptions and the loss of particular 800 numbers, as well as exemption from a requirement that resellers obtain their end-users' written consent prior to the transaction. *See* AT&T Br. at 21–23.

Be that as it may, proceeding by analogy does not change the fact that CCI and PSE did request a *transfer* — a transaction on its face at least potentially within the reach of Section 2.1.8, which governs “Transfer or Assignment” — instead of dropping and adding traffic in separate transactions. George Eliot has written that “the world is full of hopeful analogies,” *MIDDLEMARCH* 83 (Penguin Classics 1994) (1872), and this must be one of them, but likening the transfer at issue to a different arrangement, and then analyzing how *that* arrangement would fare under Section 2.1.8, does not advance the FCC’s position very far.

In addition, the Commission’s failure to grasp AT&T’s comment reveals a more fundamental error in its approach. The reason AT&T seemed to equate the transfers in this case with a transfer of plans is that CCI sought to move *virtually all* of the billed telephone numbers in each of its CSTP II plans. Thus, for each of the nine plans, CCI asked AT&T to move all but one, or all but two, of the telephone numbers included in that plan. *See* Transfer of Service Agreement Forms. In so doing, CCI asked AT&T to move nearly all the services — all the benefits — associated with its CSTP II plans. What was left behind were CCI’s obligations — the burdens under the plans. Accordingly, even if small scale transfers of traffic were outside the scope of Section 2.1.8, allowing *this* transaction to go through would create an obvious end-run around the unquestioned rule that new Customers had to “assume all obligations” in transferring WATS *plans*. Any reseller could circumvent Section 2.1.8 simply by asking AT&T to move its business one billed telephone number at a time. Using such a scheme, a reseller could move every component of a plan, save its obligations to AT&T. The transfer

provision would then have no effect except in those cases where the transferor foolishly fell within its scope by phrasing its request in terms of the tariffed plans themselves.

The FCC itself recognized that the "purpose" of Section 2.1.8 "was to maintain intact the balance of obligations and benefits between parties under the tariff when one customer stepped into the shoes of another." FCC Order at 7. The Commission's interpretation eviscerates this very purpose, allowing PSE to take up essentially all of CCI's resale business without assuming so much as one of CCI's obligations to AT&T.¹

As the foregoing discussion indicates, we find the Commission's interpretation implausible on its face. First, the plain language of Section 2.1.8 encompasses all transfers of WATS, and not just transfers of entire plans. In the absence of any contrary evidence, we find that "traffic" is a type of service covered by the tariff. Second, the FCC's interpretation, permitting the movement of benefits without any assumption of obligations, would render the transfer provision meaningless

¹ The FCC contends that this entire line of argument — challenging the Commission's interpretation as rendering Section 2.1.8 meaningless — is not properly before us, as AT&T did not first present it to the Commission in a petition for reconsideration. FCC Br. at 15 & 19. We disagree. The Communications Act precludes us from addressing only those issues upon which the Commission "has been afforded no opportunity to pass." 47 U.S.C. § 405(a). It does not prevent us from considering "whether the original question was correctly decided," *MCI v. FCC*, 10 F.3d 842, 845 (D.C. Cir. 1993), or whether the FCC "relied on faulty logic." *Nat'l Ass'n for Better Broadcasting v. FCC*, 830 F.2d 270, 275 (D.C. Cir. 1987). The analysis recounted above speaks to the soundness of the Commission's ruling on the question initially presented, and not to any novel legal or factual claims.

even in cases involving the transfer of entire plans, so long as the parties asked the carrier to move all the beneficial plan components rather than the plan itself. The whole purpose of the tariff provision in question was to ensure that benefits could not be transferred without concomitant obligations. It is utterly untenable to contend that the provision does not apply when only benefits are transferred.

In sum, the FCC clearly erred in ruling that Section 2.1.8 of AT&T Tariff FCC No. 2 does not apply to a transfer of "traffic." As this was a threshold determination in the FCC's order, we do not reach the remaining issues addressed by the Commission and argued by the parties before us. We also do not decide precisely which obligations should have been transferred in this case, as this question was neither addressed by the Commission nor adequately presented to us.² All we decide is that Section 2.1.8 cannot be read to allow parties to transfer the benefits associated with 800 service without assuming any obligations. The petition for review is granted.

² At oral argument, AT&T's counsel repeatedly stated that Tariff No. 2 expressly required PSE to assume the volume commitments that form the heart of AT&T's concern in this case. *See* Transcript of Oral Argument at 11, 13. In a motion submitted after the argument, however, the Inga companies note that the only obligations enumerated by Section 2.1.8 are "outstanding indebtedness for the service" and "the unexpired portion of any applicable minimum payment period." *Intervenors Motion to Clarify and Correct the Facts of the Record* at 4. How this enumeration affects the requirement that new customers assume "*all* obligations of the former Customer" (emphasis added) is beyond the scope of our opinion.

EXHIBIT P

September 7th 2007

Marlene H. Dortch
Federal Communications Commission
WC Docket No. 06-210
CCB/CPD 96-20
800 SERVICES, INC
COMMENTS REGARDING CCI et al vs. AT&T

Deena Shetler
Via Email
Deena.Shetler@fcc.gov

FCC Contractor
fcc@bcpiweb.com

Re: WC Docket No. 06-210
CCB/CPD 96-20

Dear FCC Staff:

I would like to point out the following fundamental logic that has been overlooked regarding what the phrase “**Former**” Customer means throughout section 2.1.8 and compare it to other tariff sections which use the term “Customer”. Petitioners believe this will substantially clarify AT&T’s bogus “All Obligations” theory and the remaining jointly and severally liable provision.

Petitioners will demonstrate how this ties into Mr Kearney’s, Mr Shipp’s and petitioner’s recent comments on control of the CSTPII/RVPP plan, which can only be by one entity---AT&T’s customer of record.

A transferor can not “remain jointly and severally liable” unless the service for which the transferor is liable for is actually transferred to a transferee. Service is not just the traffic but also the CSTP/RVPP plan itself.

DC Circuit Decision page 10:

First, the plain language of Section 2.1.8 encompasses all transfers of WATS, and **not “just” transfers of entire plans.**

DC Court Decision page 2

We conclude that traffic is a type of service covered by the transfer provision, and that the Commission's contrary interpretation would render the provision meaningless.

The DC Circuit understood that a transfer of service under 2.1.8 could be either "the plan" or just the "traffic" as each of these types of transfers constitute: "Wide Area Telecommunications Service" (WATS).

See here as Exhibit A page 2 that the CSTPII plan holder is defined as an AT&T customer not a "former" customer.

AT&T 800 Customer Specific Term Plan II - The AT&T 800 Customer Specific Term Plan II (CSTP II) is a term plan, in lieu of all other specific term plans and/or service discounts that offers the Customer term plan discounts applicable to usage for the Customer's AT&T 800 Service-

The AT&T customer who is the Customer Specific Term Plan (CSTPII) service plan holder under the tariff at 3.3.1.Q's general provisions for a CSTPII plan, also must by definition have a minimum term plan revenue commitment.

See AT&T Tariff No 2 here as exhibit A page 2:

Customers must choose an annual net usage revenue commitment of between \$12,000 and \$33 million for each year of a three-year term commitment.

The tariff explains that a Customer can also do a 1 or 2 year commitment but to obtain the top discounts a CSTPII/RVPP plan holder needed to commit to three years:

See Exhibit A page 2

CSTP II Option B as specified in Section 3.3.1.Q.8., following, which provides a three-year term commitment

See Exhibit A pages 7-8 which shows the term plan revenue commitments for three year commitment as per CSTPII/RVPP Option B. The plan holder is being defined under the tariff as the AT&T **Customer** not a “Former” Customer.

**3.3.1.Q. AT&T 800 Customer Specific Term Plan II
(continued)**

8. CSTP II Option B - Is a term plan, in lieu of all other specific term plans and/or service discounts with the same terms and conditions as specified in **Section 3.3.1.Q.** for CSTP II with the following exceptions:

- Customers with an existing RVPP do not have to subscribe to a new RVPP.¹

The AT&T **Customer** Specific Term Plan Customer and its revenue commitment can not be separated. Subscription to the **Customer** Specific Term **Plan**/Revenue Volume Pricing **Plan** (CSTPII/RVPP) defines the **plan holder** as an AT&T customer. The AT&T **Customer** Specific Term **Plan** holder becomes customer of record by completing the AT&T Network Services Commitment Form and selects one of the listed term plan revenue commitments within the tariff-- the CSTPII/RVPP service **plan holder** is thus defined under the tariff as AT&T's **“customer.”**

¹ A benefit of taking a 3 year commitment was that you do not have to subscribe to a new RVPP ID, you could use your existing RVPP ID to maintain grandfathered status. New CSTP II's required new Revenue Volume Pricing Plans. A sample AT&T Network Services Commitment Form is at exhibit EE in 9/27/06 petitioner filing. A CSTPII service plan holder must also under the tariff subscribe to a Revenue Volume Pricing Plan (RVPP) to cover its CSTPII service. See in exhibit A page 3

The **Customer** must subscribe to a new Revenue Volume Pricing Plan (see Section 3.3.1.M.). **Customers** ordering a CSTP II must also order an RVPP to cover all the same AT&T 800 Services. RVPP discounts apply after the Term Plan discounts.

The minimum term plan revenue commitment to obtain the top CSTPII/RVPP discount was 3 years at 600,000 a year. Shortfall and termination obligations are both based on the term plan revenue commitment. The shortfall charge is calculated on a fiscal year end basis and is the difference between what is actually used and the annual term plan revenue commitment.

A plan that was restructured prior to the end of the fiscal year had to meet monthly pro rata commitments unless the plan, as in petitioner's case, was ordered prior to June 17th 1994. This meant that the plan could be restructured under the grandfathered rules through June 16th 1997. Under the tariff terms a restructure is known as (Discontinued Without Liability) Section 2.5.18 at exhibit FF in the 9/27/06 filing.

See here exhibit A page 5:

3. Penalty for Shortfalls - The Customer must meet the net annual revenue commitment after the discounts are applied. If a Customer does not meet the annual revenue commitment in any one year, after discounts are applied, the Customer must pay the difference between the Customer's actual billed revenue and the annual revenue commitment.

The shortfall is based upon the revenue commitment. They go hand in hand.

The termination charge as per tariff section 5 (in petitioner's exhibit CC 9/27/06 filing) is also based upon the Customers term plan revenue commitment

"35% of the remaining term plan revenue commitment".

They go hand in hand. When a transferor transfers a plan it is transferring the term plan revenue commitment and the shortfall and termination obligations are simply concomitant, that is, an accompaniment of the term plan revenue commitment. When the transferor transfers the Customer Specific Term Plan it automatically transfers the shortfall and termination obligations on that plan; they indeed go hand in hand. The transferor can not transfer shortfall and termination obligations which may lead to potential shortfall and termination charges, without transferring the term "plan" revenue commitment—which is defined by the tariff as the CSTPII/RVPP plan holder customer!

Here is the key: When a Transferor transfers its CSTPII/RVPP plan it is no longer considered by AT&T as an AT&T Customer. Its status changes from an AT&T “Customer” to a “Former” AT&T Customer as AT&T’s TSA and 2.1.8 clearly state.

As per 2.1.8:

- A. The Customer of record (former Customer) requests in writing that the Company transfer or assign WATS to the “new Customer”.

In a previous AT&T filing AT&T did its DOT DOT DOT (...) routine to bypass 2.1.8’s para A in hopes of drawing attention away from 2.1.8’s paragraph A; because 2.1.8 A focuses on the transformation from Customer of record status as indicated under 3.3.1.Q to “Former” Customer on services (plan or traffic) that are designated for transfer in 2.1.8’s opening sentence, and on the AT&T TSA.

When the transferor transfers its CSTPII/RVPP plan it is transferring away its AT&T “Customer” Status and “control” of that CSTPII/RVPP Plan.

Section 2.1.8 refers to the Transferor as the Former Customer and the Transferee as the New Customer is because and designates at the top of the AT&T TSA form and in 2.1.8’s opening sentence what services are transferred; defining the Transferor as the Former Customer on what it transfers. The word “Former” defines the transferor as to the service it transferred (plan or traffic).

Look at section 2.1.8 in Jan 1995 (FCC 2003 Decision pg. 6 n.46--exhibit B in petitioners 9/27/06 filing:

Transfer or Assignment – WATS, including “ANY” associated telephone number(s), may be transferred or assigned to a new Customer, provided that:

- B. The Customer of record (former Customer) requests in writing that the Company transfer or assign WATS to the “new Customer”.
- C. The “new Customer” notifies the Company in writing that it agrees to assume all obligations of the “former” Customer at the time of transfer or assignment. These obligations include: (1) all outstanding indebtedness for the service and (2) the unexpired portion of any applicable minimum payment period(s).
- C. The Company acknowledges the transfer or assignment in writing. The acknowledgement will be made within 15 days of receipt of notification.

The transfer or assignment does not relieve or discharge the former Customer from remaining jointly and severally liable with the new Customer for any obligations existing at the time of transfer or assignment. These obligations include: (1) all outstanding indebtedness for WATS, and (2) the unexpired portion of any applicable minimum payment period(s). When a transfer or assignment occurs, a Record Change Only Charge applies.

The **FORMER** Customer pertains to what the transferor has transferred to the New Customer that is listed at the top of the AT&T TSA, which is verbatim 2.1.8. The AT&T Customer becomes the Former Customer only on that which is designated for transfer.

The Transferor is a Former AT&T Customer only as to what it has transferred (plan or traffic) and if the plan is not transferred the transferor remains an AT&T Customer in control of the plan and the traffic which was not designated for transfer.

Simple: If the AT&T transferor has not transferred away the plan the Transferor is not a FORMER Customer as to the plan at the time of transfer; the transferor is still an AT&T Customer.

If the Transferor has transferred away 90% of its plans traffic, but not the plan, the transferor is a **Former** Customer under 2.1.8 on the 90% of the traffic that it transferred to the New Customer but is still AT&T’s customer of record on the 10% of the accounts not designated in the opening sentence for transfer under 2.1.8.

Listen to the Fat Lady Singing....

See 2.1.8 Section B above:

agrees to assume all obligations of the **former** Customer at the time of transfer

“All obligations” pertain to the service (plan or traffic) listed on the top of the AT&T TSA for transfer **which defines the transferor as a FORMER Customer on what is transferred.**

Right there in front of everyone’s face!!

What is listed for transfer by the Former Customer to the New Customer defines the transferor as a Former Customer to the plan or amount of account traffic transferred. As the petitioners and AT&T Counsel Mr Carpenter have been stating all along: “All obligations” are indeed mandatory to be transferred of the **former customer** but this depends upon what services are designated (plan or traffic) that make the transferor an AT&T **Former** Customer just **on those services transferred.**

Another way to put it is that section 2.1.8(b) does **not require:**

agrees to assume all obligations of the **Customer** at the time of transfer

It only requires:

agrees to assume all obligations of the **“former”** Customer at the time of transfer

So simple!!!

The former Customer is defined within 2.1.8 and on the AT&T TSA as to what is selected for transfer. The transferor is only “former” on the service (traffic or plan) which the transferor actually transfers!!! The transferor is still the “Customer” on what it does **not** transfer—the **non** transferred plan and the **non** transferred accounts.

So Simple: The word “Former” is defined in 2.1.8 and the list provided in the AT&T TSA limits which services “all obligations” pertains to. If the transferor transferred the plan then absolutely “all obligations” would include the plans revenue commitment and concomitant shortfall and termination obligations as in the Inga to CCI plan transfer.

The key is the limiting word “FORMER” and the list of service designated at the time of transfer. This word “FORMER” defines and limits the transferor to what it selected for transfer in 2.1.8’s opening sentence.

Petitioners 9/27 /06 FCC filing at page 4 and 5 is consistent with the analysis of what it means to be a “Former” customer versus a “Customer”. Please review:

The D.C. Circuit stated at exhibit C pg. 7 line 1:

This section on its face does not differentiate between transfers of entire plans and transfers of traffic, but rather speaks only in terms of WATS--- the telephone service itself.

Both the D.C. Circuit and the FCC did not see on its face where within 2.1.8 it allowed traffic only to transfer because 2.1.8 violated the law by not being explicit. The differentiation is actually in the “any” number(s) of accounts that the new customer accepts. Any can be one, some, or most, without specification, that can be transferred. If 2.1.8 only allowed plan transfers (as the FCC originally believed) the word “any” would have to be changed to ALL and the singular option “Number” would have to be only the plural option: Numbers. **“All obligations” pertain to, or as AT&T counsel Mr. Carpenter *infra* states “depends upon, what is selected for transfer”.** Under 2.1.8 at “B” “the “new” Customer (transferee PSE) notifies the Company” (Company=AT&T), what it has accepted (either selected “traffic only” as the case at issue, or the plan with all traffic) and then yes of course it is obligated for “all the obligations” **BUT, only on that part of the service which the transferee (PSE) accepts!”** Of course, shortfall and termination obligations are not transferred by petitioners/assumed by PSE, because, shortfall and termination obligations are the Transferor (petitioner’) Customer’s plan obligations as per tariff page 3.3.1.Q bullet 10 exhibit D). S&T obligations never transferred on traffic only transfers. This is why, despite the fact that AT&T states it has done tens of thousands of traffic only transfers under 2.1.8, AT&T can not produce one single piece of evidence showing that its position was ever done in

such a manner. No evidence exists! AT&T admitted in its 1996 FCC filing, and the FCC Ruling stated, the plans were not being transferred or terminated. If the D.C. Circuit had seen on its face the differentiation, then it would have easily understood that paragraph “B’s all obligations language pertains only to what is accepted and reported by the new customer (PSE) to AT&T.

The above 9/27/06 tariff analysis of 2.1.8 was absolutely correct, particularly this piece:

“All obligations” pertain to, or as AT&T counsel Mr. Carpenter *infra* states “depends upon, what is selected for transfer”. Under 2.1.8 at “B” “the “new” Customer (transferee PSE) notifies the Company” (Company=AT&T), what it has accepted (either selected “traffic only” as the case at issue, or the plan with all traffic) and then yes of course it is obligated for “all the obligations” BUT, only on that part of the service which the transferee (PSE) accepts!”

What was missing in this previous tariff analysis was the emphasis on the transferor and the word “Former” and emphasizing the list of accounts in the opening 2.1.8 sentence which limited and defined what service (plan or traffic) was designated within the list under 2.1.8 for the “traffic only” transfer.

The Former customer is defined in the opening of the AT&T Transfer of Service Agreement (TSA) form in which the designated service (plan or traffic) is listed which defines which services the transferor has been given Former Customer status on. The top of the AT&T TSA is simply allowing for the implementation of what is included in the “ANY” number(s) of accounts transferred in 2.1.8’s opening sentence.

See Exhibit F in petitioners 9/27/06 filing for samples of AT&T TSA’s:

All the AT&T TSA’s have the header...

Transfer of Service
Agreement and Notification

I, _____, hereby
(Former Customer)
request that AT&T transfer or assign service for Account
Number(s): _____
To _____
(Customer)

The TSA immediately defines Former Customer and then what is provided is the list of what service (traffic or plan) that is going to be transferred, further defining what is encompassed by being a “Former” Customer.

The Former Customer service list limits the obligations and joint and several liability to the designated accounts. If it was a plan transfer then the Former Customer would list the plans 181.....Main Billed Telephone Number which also was referred to as the lead or home account.

On the AT&T TSA’s in question instead of listing thousands of accounts to transfer, it was easier and customary to state move all BTNS (which means Billed Telephone Number (i.e. locations) and then state “except for....”.

AT&T did the billing of the accounts and had a copy of the aggregators Revenue Volume Pricing Plan Report which listed all of the accounts on its CSTPII/RVPP plan so there was no need to list thousands of accounts.

The “move all except for 181number statement” made on each of the TSA exhibits at F in the 9/27/06 filing of course is the 181....Main Billed Telephone Number of that plan, which does not get transferred on a “traffic only” transfer. Petitioners have evidenced in a previous exhibit AT&T Counsel Mr Whitmer agreeing with counsel Richard Yeskoo during oral argument before Judge Politan that the home or lead account does not transfer on a “traffic only” transfer. Petitioners have also recently provided as an exhibit the tariff definition of Main Billed Telephone Number.

Simply “all obligations” pertain to what is designated for transfer by the “Former Customer” under 2.1.8.

Also notice on the AT&T TSA’s (at exhibit F in the 9/27/06 filing) that the transferor signature line again defines the transferor as a Former Customer as to which services (plan or traffic) that are listed for transfer:

Former Customer (Date)
Authorized Representative

Title

New Customer (Date)
Authorized Representative

Title

Under petitioners correct tariff interpretation, PSE was responsible for the two obligations it accepted

(1) all outstanding indebtedness for the service and (2) the unexpired portion of any applicable minimum payment period(s)

... on accounts which were designated for transfer under 2.1.8.

Petitioner’s tariff analysis which correctly interprets and defines under 2.1.8 the **Former Customer** with the list of accounts designated as limiting a transferee so it would **not** be obligated for these two obligations on accounts **not** designated for transfer. AT&T’s implausible theory has PSE being obligated for the above two obligations on accounts **not** designated for transfer within 2.1.8. AT&T’s POST DC Circuit theory has the transferee obligated for bad debt and unexpired minimum payment period on accounts it never accepted.

AT&T's tariff interpretation POST DC Circuit is an absolutely ridiculous tariff analysis that is counter to 2.1.8, makes no common sense, is not a reasonable tariff construction, and is counter to AT&T's practices and is commercially not feasible.

Now look at 2.1.8 para C and it is the same exact logic:

The transfer or assignment does not relieve or discharge the former Customer from remaining jointly and severally liable with the new Customer for any obligations existing at the time of transfer or assignment.

There is the "FORMER" status again.

The Transferor is only obligated (at the time of transfer or assignment) to become jointly and severally liable on the services **listed for transfer** which changed the transferors status on that service listed for transfer to that of a **Former** AT&T Customer as opposed to an AT&T Customer under 3.3.1.Q CSTPII/RVPP provisions.

If "traffic only" is transferred and not the plan the transferor remains a "Customer" Specific Term Plan/Revenue Volume Pricing Plan **AT&T Customer** as per 3.3.1.Q. provisions as to the plan—not a Former Customer. Only an AT&T customer maintains control of its CSTPII/RVPP plans. A former Customer no longer controls what it transfers.

On the "traffic only" transfer the transferor does remain jointly and severally liable with the transferee as to the accounts selected at the time of the transfer and is a Former Customer on those accounts designated for transfer. On the "traffic only" transfer the transferor does not become jointly and severally liable for the accounts that are not transferred as the transferor is not a Former Customer on the accounts that it did not designate for transfer.

The Transferor is still the AT&T Customer for the accounts not transferred and thus maintains responsibility to AT&T for the bad debt/min payment period on the accounts not transferred. On the "traffic only" transfer PSE becomes the New Customer only on the accounts designated for transfer, and has control over those designated accounts. Thus PSE is responsible for "all the obligations" on what was designated for transfer by the Former Customer and accepted by the

New Customer which on the “traffic only” is the bad debt and unexpired minimum payment period on the accounts transferred from the Former Customer.

CCI does remain jointly and severally liable with PSE for all the obligations (bad debt and unexpired minimum payment period) on the service designated for transfer. Because the plan was not designated for transfer CCI does **not** remain jointly and severally liable for the plans revenue commitment and concomitant shortfall and termination obligations. CCI remains liable as the Customer of record for the plans revenue commitment and concomitant shortfall and termination obligations. These are customer **controllable** obligations that were not transferred because the plan was not designated for transfer.

Now with this foundation of understanding that:

- 1) it is the plans revenue commitment that gets transferred and this automatically brings along with it the concomitant shortfall and termination obligations,
and
- 2) that the transferor’s AT&T **Customer** Status is transferred to the transferee (PSE) when a **plan** or the designated accounts transfer)---- relegating the transferor to **Former** Customer Status within 2.1.8, lets get back to section 2.1.8’s remaining jointly and severally liable clause.

A transferor can not “remain jointly and severally liable” unless the term plan revenue commitment, for which the transferor is responsible as an AT&T Customer----- is designated for transfer within 2.1.8 to the transferee. Transferring away the term plan revenue commitment indicates that the Transferor was no longer an AT&T customer in control of the revenue commitment transferred, and would under a plan transfer become a Former Customer. The word: “remain” means the transferor “use to” control the plan or the accounts that were in its plan but no longer does because the transferor designated the plan or transfer.

Remaining jointly and severally liable occurs on that which is designated for transfer in 2.1.8 and the transferor no longer controls that which it transferred. **Former** AT&T plan holder Customers no longer control the plan under 3.3.1.Q para 4 (by adding and deleting service) as per exhibit D in petitioners 9/27/06 filing.

Former Customers no longer control the accounts designated for transfer and remain jointly and severally liable only on what is designated for transfer. Because the CSTPII/RVPP plan (which is defined by having AT&T Customer Status, and the controlling of its term plan revenue commitment) was not transferred; 2.1.8's "remaining jointly and severally liable" clause is not enacted against the transferor AT&T Customer, because it is not designated for transfer within 2.1.8. The transferor CCI it is not a Former AT&T customer but continues as an AT&T Customer in control of its non transferred plan.

The transferor AT&T Customer is not shedding its term plan revenue commitment by listing it under 2.1.8, thus it is not shedding its AT&T Customer status to become a Former AT&T Customer under 2.1.8.

The AT&T customer CCI remains AT&T's Customer because CCI did not designate within 2.1.8 the transfer of its plans. If CCI designated the plans to transfer CCI would have become a "FORMER" AT&T Customer Specific Term Plan Customer as to the plans.

As per 3.3.1.Q paragraph 10 (see page 5 on Exhibit A within).

- Shortfall and/or termination liability are the responsibility of the "Customer". Any penalty for shortfall and/or termination liability will be apportioned according to usage and billed to the individual locations designated by the Customer for inclusion under the plan. For billing purposes, such penalties shall reduce any discounts apportioned to the individual locations under the plan.

Shortfall and termination liability are the responsibility of the AT&T **Customer.**

The Former plan owner Customer is also responsible for the shortfall and termination obligations on these plans as the FCC 2003 Decision indicated; and those Former Customers were the Inga Companies on the CCI plans, because the Inga Companies lost AT&T customer status under 2.1.8 and became the Former Customer when the Inga Companies did indeed designate within its transfer under 2.1.8 the plan to transfer to CCI.

The whole concept of “remaining jointly and severally liable” was to protect AT&T for the revenue commitment and concomitant shortfall and termination obligations that were being transferred away by a transferor (FORMER CUSTOMER) on a plan transfer. Likewise the “remaining jointly and severally liable” provision protected AT&T by mandating that the Transferor on a “traffic only” transfer was still obligated for indebtedness and unexpired minimum payment period on the accounts designated within 2.1.8 for transfer.

On the “traffic only” transfer, CCI remained AT&T’s Customer on the plan ---not a Former Customer, because it did not transfer away its Customer Specific Term Plan revenue term plan commitment at the time of transfer under 2.1.8.

CCI continued to be obligated for the plans revenue term plan commitment and concomitant shortfall and termination obligations as it continued to be AT&T’s customer of record at 3.3.1.Q paragraph 10. As an AT&T Customer CCI could continue to add accounts to its non transferred plans as indicted under the tariff at 3.3.1.Q para 4:

See Exhibit A page 5 para 4:

- The Customer may add or delete an AT&T 800 Service or AT&T Custom 800 Service covered under the plan.

If CCI was a 2.1.8 Former CSTPII/RVPP plan Customer it would have had to designate for transfer the plans term plan revenue commitment (the plan) and lose AT&T customer status. CCI would not be able to add accounts to its plans if was not a Customer.

Due to the non disputed fact that it remained an AT&T CSTPII/RVPP plan Customer and the CSTPII/RVPP plan holder it could continue to add accounts and maintain control of its CSTPII/RVPP plans and the revenue commitment and concomitant shortfall and termination obligations. Thus the revenue commitment and concomitant shortfall and termination obligations do not transfer.

When CCI received the plans from the Inga petitioners the CSTPII/RVPP plans term plan revenue commitment was indeed transferred to CCI and therefore the Inga Companies did under 2.1.8 of the tariff remain jointly and severally liable with CCI for the term plan revenue

commitment. The Inga Companies under 2.1.8 did indeed become the Former AT&T Customer and thus under the tariff no longer owned or controlled the CSTPII/RVPP plans transferred as per 3.3.1Q CSTPII/RVPP provisions.

When the Commission looks at section 2.1.8 it can not only rely upon what 2.1.8 states—because it is not explicit. If the Commission were to rely solely on what 2.1.8 states, the term plans revenue commitment and shortfall and termination obligations are not mentioned at all and this would indicate that these commitments do not transfer on “either” a plan transfer or a traffic transfer.

However it is understood based upon other tariff sections interacting with 2.1.8’s Former Customer Status, vs. 3.3.1.Q’s and section 5 ‘s Customer Status that revenue commitments and their concomitant shortfall and termination obligations

A) Do transfer on a plan transfer (as the transferor does shed its plans revenue commitments and becomes a Former Customer) and

B) Do **not** transfer on a “traffic only” transfer as the transferor remains an AT&T plan holder Customer in control of its non transferred plan.

The Commission has to look at the general CSTPII provisions at tariff section 3.3.1.Q and tariff section 5 to fully understand section 2.1.8., and can clearly see why AT&T defines as a “Former Customer” what is designated for transfer within 2.1.8 by the transferor.

The bottom line is that a transferor’s revenue commitment and concomitant shortfall and termination obligations do not transfer to a transferee unless the plan is designated for transfer. The transferor becomes a FORMER AT&T Customer only as to what is designated for transfer.

If the transferor still has control of the Customer Specific Term Plan the transferor is not as per 3.3.1.Q a FORMER AT&T Customer--- the transferor is still an AT&T Customer.

Likewise under 2.1.8 the transferor gives up control to the New **Customer** on that which is has designated for transfer. You can not have two customers simultaneously controlling the accounts transferred or the plan transferred.

Because the CSTPII/RVPP Plan was not designated for transfer by the remaining transferor “Customer” under 2.1.8 the CSTPII/RVPP plans revenue commitment and concomitant shortfall and termination obligations do **not** transfer, as the obligations required only pertain to what service is transferred by a **Former** Customer under 2.1.8.

Respectfully Submitted
One Stop Financial, Inc
Winback & Conserve Program, Inc.
Group Discounts, Inc.
800 Discounts, Inc

/s/ Al Inga
Al Inga President

Exhibit A

AT&T COMMUNICATIONS

Adm. Rates and Tariffs
Bridgewater, NJ 08807
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TARIFF F.C.C. NO. 2

20th Revised Page 61.16
Cancels 19th Revised Page 61.16
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3.3.1.Components and Rates (continued)

Q. AT&T 800 Customer Specific Term Plan II - The AT&T 800 Customer Specific Term Plan II (CSTP II) is a term plan, in lieu of all other specific term plans and/or service discounts that offers the Customer term plan discounts applicable to usage for the Customer's AT&T 800 Service-

Domestic*, AT&T 800 READYLINE*, AT&T MEGACOM 800 Service, 800 Validator, AT&TC 800 Gold Services, AT&T 800 READYLINE-Canada*, AT&T 800 READYLINE-Overseas*, C AT&T 800 READYLINE-Mexico*, AT&T MEGACOM 800 Service-Canada, AT&T MEGACOM 800C Service-Overseas, AT&T MEGACOM 800 Service-Mexico, 800 Nodal Validator-Canada, AT&T 800 READYLINE-Puerto Rico and the U.S. Virgin Islands (available under Tariff F.C.C. No. 14), AT&T USADirect 800 Service and the following Intrastate offerings: AT&T 800 READYLINE, AT&T MEGACOM 800 Service, AT&T 800 Gold Service-Switched and AT&T 800 Gold Service- Nodal. Customers must choose an annual net usage revenue commitment of between \$12,000 and \$33 million for each year of a three-year term commitment. Customers may also choose the CSTP II Option A as specified in Section 3.3.1.Q.7., following which provides a two-year term commitment or CSTP II Option B as specified in Section 3.3.1.Q.8., following, which provides a three-year term commitment or CSTP II Option C as specified in Section 3.3.1.Q.9., following, which provides a one-year Term commitment. A one time usage credit will be applied to the Customer's bill equal to 1/2% of the first year's annual revenue commitment. In addition, this plan applies a percent discount to the total amount of interstate and intrastate usage revenue for each of the services under the plan. The annual revenue commitment is based on monthly recurring and net usage revenue after the term plan discount and before the application of discounts provided under the Revenue Volume Pricing Plan (RVPP) (see Section 3.3.1.M. preceding). The annual revenue commitment level includes usage and monthly recurring charges for any one, or any combination, of the following Services: AT&T 800 Service-Domestic, AT&T Advanced 800 Service, 800 Nodal Validator, AT&T 800 Service-Canada, AT&T 800 Service-Overseas, AT&T 800 Service-Mexico, AT&T MEGACOM 800 Service-Overseas, AT&T MEGACOM 800 Service-Canada, AT&T MEGACOM 800 Service-Mexico, AT&T 800 READYLINE-Canada, AT&T 800 READYLINE, AT&T 800 Gold Services, AT&T 800 READYLINE-Puerto Rico and the U.S. Virgin Islands (available under Tariff F.C.C. No. 14), AT&T MEGACOM 800 Service, AT&T USADirect 800 Service and the following intrastate offerings: AT&T 800 READYLINE, AT&T MEGACOM 800 Service, AT&T 800 Gold Service-Switched and AT&T 800 Gold Service-Nodal. AT&T 800 Service-Canada, AT&T 800 Service-Overseas and AT&T 800 Service-Mexico volumes will contribute toward the annual revenue commitment but will not be eligible for any discounts. If there are no identical discounts effective for this plan in AT&T's intrastate tariff the discount will be applied to the Customer's total interstate usage revenue. If an identical discount plan is effective in an AT&T intrastate tariff, the discount will

* For AT&T 800 Service-Domestic, Canada, Overseas and Mexico and AT&T 800N READYLINE and AT&T 800 READYLINE-Canada, Overseas and Mexico on an access. line the CSTP II is not available to new or existing Customers who did not have any of these services on order on or before January 31, 1998. AT&T Contract Tariffs in effect, or pending, on January 31, 1998, which include any of these services are not affected by this provision. Availability of the CSTP II for these services will not extend beyond the current term of the. Contract Tariff unless otherwise provided herein. N

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3.3.1.Q. AT&T 800 Customer Specific Term Plan II (continued)

be applied first to the intrastate usage revenue. The discount on the interstate usage will equal the difference between the discount which would have applied on total usage, and the amount of the discount on intrastate usage. There are no intrastate tariffs containing identical discounts at this time. However, when identical discounts are available in an AT&T intrastate tariff, this tariff will provide an availability list. The discount is applied to the annual billed gross usage revenue from the following services: AT&T 800 Service-Domestic, AT&T 800 READYLINE, AT&T MEGACOM 800 Service, AT&T 800 Gold Services and 800 Nodal Validator, AT&T 800 READYLINE-Canada, AT&T 800 READYLINE-Overseas, AT&T 800 READYLINE-Mexico, AT&T MEGACOM 800 Service-Canada, AT&T MEGACOM 800 Service-Overseas, AT&T MEGACOM 800 Service-Mexico, AT&T 800 READYLINE-Puerto Rico and the U.S. Virgin Islands (available under Tariff F.C.C. No. 14), AT&T USADirect 800C Service and intrastate AT&T 800 READYLINE, AT&T MEGACOM 800 Service, AT&T 800C Gold Service-Switched and AT&T 800 Gold Service-Nodal. If the RVPP/Customer Specific Term Plan II Customer's service is restricted and/or denied for non-payment of charges (see Section 2.8.3. preceding), service at the Customer's designated locations will be restricted and/or denied as specified below. The following conditions apply:

- The 800 CSTP II will commence on the first of the billing month following the Customer subscribing to the Term Plan.
- The Customer must subscribe to a new Revenue Volume Pricing Plan (see Section 3.3.1.M.). Customers ordering a CSTP II must also order an RVPP to cover all the same AT&T 800 Services. RVPP discounts apply after the Term Plan discounts.
- If the Customer terminates the CSTP II within the first year, the 1/2% credit must be repaid and will be added to the term plan cancellation penalty.
- There is a \$50.00 per location charge to move a CSTP II location from an existing CSTP II to a new CSTP II or to another existing CSTP II. This charge is not applicable to the first 10 locations moved between plans in each calendar year, when the original plan is not discontinued.
- There is a \$50.00 charge when an existing CSTP II is discontinued and all of its locations are concurrently moved to a new or existing CSTP II with a revenue commitment equal to or greater than the original plan being discontinued.

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3.3.1.Q. AT&T 800 Customer Specific Term Plan II (continued)

- If the Customer terminates the CSTP II within the first year of the plan and concurrently establishes a new CSTP II of greater value, no additional one time 1/2% credit will apply.
- All other specific term plans and service discounts are excluded from the CSTP II with the exception of the \$.01 per minute access line discount. The AT&T 800 Service-Domestic \$.01 per minute access line discount is applied after the Term Plan discount but before the RVPP discount.
- The Customer must commit to an annual commitment for three years as shown in Sections 3.3.1.Q.1. and 3.3.1.Q.8., or two years as shown in Section 3.3.1.Q.7., or one year as shown in Section 3.3.1.Q.9, following.
- The Customer may add or delete an AT&T 800 Service or AT&T Custom 800 Service covered under the plan.
- In the event the Customer converts from another AT&T Term Plan to a CSTP* II, there will be no decrease in the percent discount received by the Customer. *
- The Customer will assume all financial responsibility for all designated accounts in the plan and will be liable for all charges incurred by each location under the plan.
- The Customer must also provide to AT&T, for each location participating in the above mentioned plan, written authorization for including the locations in the plan, billing account number and/or billed name, type of service, and address to which the bill is to be sent.
- In the event that a location is in default of payment, AT&T will seek payment from the Customer. If the Customer fails to make payment for the location in default, AT&T will: (1) reduce the discount by the amount of the billed charges not paid by that location, if any, and apportion the remaining discount, if any, to all locations not in default, and if payment is not fully collected by the above method, (2) terminate the RVPP/CSTP II for failure of the Customer to pay the defaulted payment.
- In the event of termination of the Customer's RVPP and/or Term Plan, the Customer being terminated must notify the individual locations that the RVPP and/or Term Plan has been discontinued and the individual locations not in default of their location billing charges will be converted to monthly rates as individual customers unless they notify AT&T otherwise.
- Shortfall and/or termination liability are the responsibility of the Customer. Any penalty for shortfall and/or termination liability will be apportioned according to usage and billed to the individual locations designated by the Customer for inclusion under the plan. For billing purposes, such penalties shall reduce any discounts apportioned to the individual locations under the plan.

* This condition applies only to Customers whose CSTP II was in effect or on order prior to July 1, 1993. This does not apply to existing CSTP II Customers that renew their term plan after June 30, 1993.

AT&T COMMUNICATIONS
TARIFF F.C.C. NO. 2

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3.3.1.Q.2. Method of Determining Discount

2. Method of Determining Discount -

Example 1 - A Customer commits to an annual net revenue level of \$960,000 but exceeds that commitment by generating \$1,450,000 usage revenue during the second plan year. This example shows the total amount of the discount that the Customer would receive for the second year.

Term Plan Discount x Gross Annual Usage Rev.

Location A

MEGACOM 800 Service	(23%) x \$250,000	= \$57,500
\$250,000	\$250,000 - \$57,500	= \$192,500

Location B

Basic 800	(23%) x \$875,000	= \$201,250 (minus \$.01 per minute
\$875,000	\$875,000 - \$201,250	= \$673,750 access line discount)

Location C

800 READYLINE	(23%) x \$325,000	= \$74,750
\$325,000	\$325,000 - \$74,750	= \$250,250

Total net usage charges A+B+C	= \$1,116,500
Total usage discounts	= \$333,500

3. Penalty for Shortfalls - The Customer must meet the net annual revenue commitment after the discounts are applied. If a Customer does not meet the annual revenue commitment in any one year, after discounts are applied, the Customer must pay the difference between the Customer's actual billed revenue and the annual revenue commitment.

4. Cancellation or Discontinuance of AT&T's 800 Customer SpecificC
Term Plan II-Without Liability - The Customer may cancel its order for this term plan when notice of cancellation is received by AT&T before the last day of the month in which the order is placed. For example, if the term plan order is received on January 3, the notice of cancellation of the order must be received by AT&T before January 31. The Discontinuance Without Liability Regulations formerly contained in this Section have been replaced with the Discontinuance Without Liability Regulations specified in Section 2.5.18. C

AT&T COMMUNICATIONS
Adm. Rates and Tariffs
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TARIFF F.C.C. NO. 2
8th Revised Page 61.21.2
Cancels 7th Revised Page 61.21.2
Effective: November 9, 1995

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5. Discontinuance of AT&T's 800 Customer Specific Term Plan II-With Liability - When a Customer has AT&T 800 Services covered under the plan, disconnection of any one of the services does not constitute discontinuance of the plan. Except for conditions covered in Section 3.3.1.Q.4., preceding, discontinuance of all service furnished under the CSTP II prior to the expiration of the applicable term, constitutes discontinuance of the plan and will result in Customer liability as specified following. The amounts due to the Company upon discontinuance will be:

- 35% of the remaining term plan revenue commitment.

Discontinuance Liability

A Customer commits to a revenue commitment of \$420,000 for three years.

Example: A Customer commits to an annual revenue commitment of \$420,000 for three years and discontinues the plan at the end of two years. The Customer would be liable for $\$420,000 \times .35 = \$147,000$.

6. Expiration of AT&T's 800 Customer Specific Term Plan II - A CSTP II expires when the three-year term ends. Upon expiration of the Term Plan, the plan will roll-over to a new three-year plan at discount levels applied during the third year of the plan, if the Customer notifies AT&T to renew the term plan. If the Customer does not notify AT&T to renew the Term Plan, the Customer's service will revert to current (non-term) rates.

Customers will be notified one month prior to the expiration of the Term Plan.

7. CSTP II Option A - CSTP II Option A is a term plan, in lieu of all other specific term plans and/or service discounts with the same terms and conditions as specified in Section 3.3.1.Q. for CSTP II with the following exceptions:

- Option A has a two year annual revenue Commitment.
- Customers who have concurrently moved from a CSTP II to a CSTP II Option A and have already received a 1/2% credit under their expired CSTP II, will not receive an additional 1/2% credit for one year.

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3.3.1.Q. AT&T 800 Customer Specific Term Plan II (continued)

8. CSTP II Option B - Is a term plan, in lieu of all other specific term plans and/or service discounts with the same terms and conditions as specified in Section 3.3.1.Q. for CSTP II with the following exceptions:

- Customers with an existing RVPP do not have to subscribe to a new RVPP.
- AT&T 800 Gold Services are not eligible for Option B.
- If the Customer terminates CSTP II Option B to order VTNS from AT&T's Tariff F.C.C. No. 12, the Discontinuance Liability will be applied.

Rates:

	Nonrecurring Charge
Service Establishment	\$10,000.00

The Service Establishment charge will be waived from July 1, 1993 to January 1, 1994.

(a) Discount - The following discounts apply to CSTP II Option B.

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**3.3.1.Q.8. AT&T 800 Customer Specific Term Plan II Option B
 (continued)**

Schedule A - AT&T MEGACOM 800 Service

<u>Annual Revenue Commitment</u>	<u>Term Plan Discount</u>		
	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
\$600,000	23.00%	23.00%	23.00%
\$780,000	23.00%	23.00%	23.00%
\$960,000	23.00%	23.00%	23.00%
\$1,200,000	23.00%	23.00%	23.00%
\$1,500,000	23.00%	23.00%	23.00%
\$2,250,000	23.00%	23.00%	23.00%
\$3,000,000	23.00%	23.00%	23.00%
\$4,800,000	23.00%	23.00%	23.00%
\$7,000,000	23.00%	23.00%	23.00%
\$9,000,000	23.00%	23.00%	23.00%
\$12,000,000	23.00%	23.00%	23.00%
\$15,000,000	23.00%	23.00%	23.00%
\$18,000,000	23.00%	23.00%	23.00%
\$21,000,000	23.00%	23.00%	23.00%
\$24,000,000	23.00%	23.00%	23.00%
\$27,000,000	23.00%	23.00%	23.00%
\$30,000,000	23.00%	23.00%	23.00%
\$33,000,000	23.00%	23.00%	23.00%

Schedule B - Other Qualified Services

<u>Annual Revenue Commitment</u>	<u>Term Plan Discount</u>		
	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
\$600,000	23.00%	23.00%	23.00%
\$780,000	23.00%	23.00%	23.00%
\$960,000	23.00%	23.00%	23.00%
\$1,200,000	23.00%	23.00%	23.00%
\$1,500,000	23.00%	23.00%	23.00%
\$2,250,000	23.00%	23.00%	23.00%
\$3,000,000	23.00%	23.00%	23.00%
\$4,800,000	23.00%	23.00%	23.00%
\$7,000,000	23.00%	23.00%	23.00%
\$9,000,000	23.00%	23.00%	23.00%
\$12,000,000	23.00%	23.00%	23.00%
\$15,000,000	23.00%	23.00%	23.00%
\$18,000,000	23.00%	23.00%	23.00%
\$21,000,000	23.00%	23.00%	23.00%
\$24,000,000	23.00%	23.00%	23.00%
\$27,000,000	23.00%	23.00%	23.00%
\$30,000,000	23.00%	23.00%	23.00%
\$33,000,000	23.00%	23.00%	23.00%

Issued on not less than one day's notice under authority of Special Permission No. 93-672.